

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JUNE 18, 2015

AMENDED IN ASSEMBLY MARCH 18, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 908**

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**Introduced by Assembly Members Gomez and Burke  
(Coauthor: Assembly Member Gonzalez)**

February 26, 2015

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An act to amend, repeal, and add ~~Section 3301~~ *Sections 985, 2655, 3301, and 3303* of the Unemployment Insurance Code, relating to disability compensation, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 908, as amended, Gomez. Disability compensation: ~~family~~ temporary disability insurance.

Existing unemployment compensation disability law provides a formula for determining benefits available to qualifying disabled individuals. For an individual who has quarterly base wages of greater than \$1,749.20, the weekly benefit is calculated by multiplying base wages by 55% and dividing the result by 13. For a benefit that is not a multiple of \$1, existing law provides that the benefit shall be computed to the next higher multiple of \$1. However, existing law provides that this amount may not exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount.

Under existing law, the family temporary disability insurance program provides up to 6 weeks of wage replacement benefits to workers who

take time off work to care for specified persons, or to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption. Existing law defines “weekly benefit amount” for purposes of this program to mean the amount of benefits available to qualifying disabled individuals pursuant to unemployment compensation disability law.

*This bill would revise the formula for determining benefits available pursuant to unemployment compensation disability law and for the family temporary disability insurance program, for periods of disability commencing after January 1, 2017, to provide a weekly benefit amount minimum of \$50 and a maximum of the maximum worker’s compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to existing law.*

~~This bill would require the family temporary disability insurance program to provide up to 8 weeks of wage replacement benefits on and after January 1, 2018. This bill would, for purposes of this program on and after January 1, 2017, require the weekly benefit amount to be calculated with a specified formula. However, the amount would be prohibited from being less than \$250, except as specified, and more than the maximum workers’ compensation temporary disability indemnity weekly benefit amount, as specified. 2017.~~

*Existing law deems an individual to be eligible for family temporary disability benefits if, among other things, the individual is unable to perform his or her regular or customary work for a 7-day waiting period during each disability benefit period. and prohibits payments for benefits during this waiting period.*

*This bill, on and after January 1, 2017, also would remove the 7-day waiting period for these benefits.*

Under existing law, workers are required to pay contributions ~~to~~ on remuneration that is equal to 4 times the maximum weekly benefit for a calendar year multiplied by 13 and divided by 55%. Existing law requires these contributions to be deposited into the Unemployment Compensation Disability Fund, a special fund in the State Treasury, and those funds are continuously appropriated for the purpose of providing disability benefits and making payment of expenses in administering those provisions.

*This bill, on and after January 1, 2017, instead would require contributions on remuneration of less than \$150,000, and would require this limit to increase annually by an amount equal to the percentage*

*increase in the state average weekly wage, as defined. No contributions would be required on remuneration exceeding that amount.*

*This bill, by authorizing an increase in the amount of workers' contributions into, and an increase in the expenditure of money from from, the Unemployment Compensation Disability Fund, would make an appropriation.*

*This bill would require, by October 1, 2016, the Employment Development Department to report to the Assembly Committee on Insurance and Senate Committee on Labor and Industrial Relations specified information regarding the waiting period for disability benefits.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 985 of the Unemployment Insurance Code*  
2     *is amended to read:*

3     985. (a) Section 984 shall not apply to that part of the  
4     remuneration which, after remuneration with respect to  
5     employment equal to four times the maximum weekly benefit for  
6     each calendar year specified in Section 2655 multiplied by 13 and  
7     divided by 55 percent has been paid to an individual by an  
8     employer, is paid to the individual by the employer.

9     (b) *This section shall become inoperative and repealed on*  
10    *January 1, 2017.*

11    *SEC. 2. Section 985 is added to the Unemployment Insurance*  
12    *Code, to read:*

13    985. (a) Section 984 shall not apply to that part of the  
14    remuneration that, when earned in 2017, exceeds one hundred  
15    fifty thousand dollars (\$150,000). Commencing on January 1,  
16    2018, and each January 1 thereafter, this limit amount shall  
17    increase by an amount equal to the percentage increase in the  
18    state average weekly wage as compared to the prior year.

19    (b) For purposes of this section, "state average weekly wage"  
20    means the average weekly wage paid by employers to employees  
21    covered by unemployment insurance as reported by the United  
22    States Department of Labor for California for the 12 months ending  
23    on March 31 of the calendar year preceding the year in which the  
24    disability occurred.

25    (c) *This section shall become operative on January 1, 2017.*

SEC. 3. Section 2655 of the Unemployment Insurance Code is amended to read:

2655. (a) Except as provided in subdivisions (b), (c), and (d), an individual's "weekly benefit amount" shall be the amount appearing in column B in the table set forth in this subdivision on the line of which in column A of the table there appears the wage bracket containing the amount of wages paid to the individual for employment by employers during the quarter of his or her disability base period in which wages were the highest.

A	B
Amount of wages in highest quarter	Weekly benefit amount
\$75–1,149.99.....	\$50
1,150–1,174.99.....	51
1,175–1,199.99.....	52
1,200–1,224.99.....	53
1,225–1,249.99.....	54
1,250–1,274.99.....	55
1,275–1,299.99.....	56
1,300–1,324.99.....	57
1,325–1,349.99.....	58
1,350–1,374.99.....	59
1,375–1,399.99.....	60
1,400–1,424.99.....	61
1,425–1,449.99.....	62
1,450–1,474.99.....	63
1,475–1,499.99.....	64
1,500–1,524.99.....	65
1,525–1,549.99.....	66
1,550–1,574.99.....	67
1,575–1,599.99.....	68
1,600–1,624.99.....	69
1,625–1,649.99.....	70
1,650–1,674.99.....	71
1,675–1,699.99.....	72
1,700–1,724.99.....	73
1,725–1,749.20.....	74

(b) For periods of disability commencing on or after January 1, 1990, and prior to January 1, 1991, if the amount of wages paid an individual for employment by employers during the quarter of his or her disability base period in which these wages were highest exceeds one thousand seven hundred forty-nine dollars and twenty cents (\$1,749.20), the weekly benefit amount shall be 55 percent of these wages divided by 13, but not exceeding two hundred sixty-six dollars (\$266) or the maximum workers' compensation temporary disability indemnity weekly benefit amount, whichever is less. If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(c) For periods of disability commencing on or after January 1, 1991, but before January 1, 2000, if the amount of wages paid an individual for employment by employers during the quarter of his or her disability base period in which these wages were highest exceeds one thousand seven hundred forty-nine dollars and twenty cents (\$1,749.20), the weekly benefit amount shall be 55 percent of these wages divided by 13, but not exceeding three hundred thirty-six dollars (\$336). If the benefit payable under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(d) (1) For periods of disability commencing on or after January 1, 2000, if the amount of wages paid an individual for employment by employers during the quarter of his or her disability base period in which these wages were highest exceeds one thousand seven hundred forty-nine dollars and twenty cents (\$1,749.20), the weekly benefit amount shall be equal to 55 percent of these wages divided by 13, but not exceeding the maximum workers' compensation temporary disability indemnity weekly benefit amount.

(2) Notwithstanding the maximum workers' compensation temporary disability indemnity weekly benefit amount of paragraph (1) of subdivision (d), if the benefit under this subdivision is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(e) *This section shall become inoperative and repealed on January 1, 2017.*

SEC. 4. *Section 2655 is added to the Unemployment Insurance Code, to read:*

2655. (a) Except as provided in subdivisions (b), (c), (d), and (e), an individual's "weekly benefit amount" shall be the amount appearing in column B in the table set forth in this subdivision on the line of which in column A of the table there appears the wage bracket containing the amount of wages paid to the individual for employment by employers during the quarter of his or her disability base period in which wages were the highest.

A	B
Amount of wages in highest quarter	Weekly benefit amount
\$75–1,149.99.....	\$50
1,150–1,174.99.....	51
1,175–1,199.99.....	52
1,200–1,224.99.....	53
1,225–1,249.99.....	54
1,250–1,274.99.....	55
1,275–1,299.99.....	56
1,300–1,324.99.....	57
1,325–1,349.99.....	58
1,350–1,374.99.....	59
1,375–1,399.99.....	60
1,400–1,424.99.....	61
1,425–1,449.99.....	62
1,450–1,474.99.....	63
1,475–1,499.99.....	64
1,500–1,524.99.....	65
1,525–1,549.99.....	66
1,550–1,574.99.....	67
1,575–1,599.99.....	68
1,600–1,624.99.....	69
1,625–1,649.99.....	70
1,650–1,674.99.....	71
1,675–1,699.99.....	72
1,700–1,724.99.....	73
1,725–1,749.20.....	74

(b) For periods of disability commencing on or after January 1, 1990, and prior to January 1, 1991, if the amount of wages paid an individual for employment by employers during the quarter of

1 his or her disability base period in which these wages were highest  
2 exceeds one thousand seven hundred forty-nine dollars and twenty  
3 cents (\$1,749.20), the weekly benefit amount shall be 55 percent  
4 of these wages divided by 13, but not exceeding two hundred  
5 sixty-six dollars (\$266) or the maximum workers' compensation  
6 temporary disability indemnity weekly benefit amount, whichever  
7 is less. If the benefit payable under this subdivision is not a multiple  
8 of one dollar (\$1), it shall be computed to the next higher multiple  
9 of one dollar (\$1).

10 (c) For periods of disability commencing on or after January  
11 1, 1991, but before January 1, 2000, if the amount of wages paid  
12 an individual for employment by employers during the quarter of  
13 his or her disability base period in which these wages were highest  
14 exceeds one thousand seven hundred forty-nine dollars and twenty  
15 cents (\$1,749.20), the weekly benefit amount shall be 55 percent  
16 of these wages divided by 13, but not exceeding three hundred  
17 thirty-six dollars (\$336). If the benefit payable under this  
18 subdivision is not a multiple of one dollar (\$1), it shall be computed  
19 to the next higher multiple of one dollar (\$1).

20 (d) (1) For periods of disability commencing on or after  
21 January 1, 2000, but before January 1, 2017, if the amount of  
22 wages paid an individual for employment by employers during the  
23 quarter of his or her disability base period in which these wages  
24 were highest exceeds one thousand seven hundred forty-nine  
25 dollars and twenty cents (\$1,749.20), the weekly benefit amount  
26 shall be equal to 55 percent of these wages divided by 13, but not  
27 exceeding the maximum workers' compensation temporary  
28 disability indemnity weekly benefit amount.

29 (2) Notwithstanding the maximum workers' compensation  
30 temporary disability indemnity weekly benefit amount of paragraph  
31 (1), if the benefit under this subdivision is not a multiple of one  
32 dollar (\$1), it shall be computed to the next higher multiple of one  
33 dollar (\$1).

34 (e) For periods of disability commencing on and after January  
35 1, 2017, an individual's "weekly benefit amount" shall be as  
36 follows:

37 (1) When the amount of wages paid to the individual for  
38 employment by employers during the quarter of the individual's  
39 disability base period in which these wages were highest is less  
40 than eight hundred thirteen dollars (\$813), then fifty dollars (\$50).

(2) When the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest is eight hundred thirteen dollars (\$813) or more, and is less than one-third of the amount of the state average base period wages, then 80 percent of the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest, divided by 13. If the weekly benefit amount is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(3) Except as provided in paragraph (4), when the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest is one-third of the amount of the state average base period wages, or more, then either (A) 26.67 percent of the state average weekly wage, or (B) 60 percent of the amount of wages paid to the individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest divided by 13, whichever amount is greater. If the weekly benefit amount is not a multiple of one dollar (\$1), it shall be computed to the next higher multiple of one dollar (\$1).

(4) An individual's "weekly benefit amount" shall not exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to Section 4453 of the Labor Code.

(f) For purposes of this section:

(1) "State average base period wages" means the state average weekly wage multiplied by 13.

(2) "State average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending on March 31 of the calendar year preceding the year in which the disability occurred.

(g) This section shall become operative on January 1, 2017.

#### ~~SECTION 1.~~

SEC. 5. Section 3301 of the Unemployment Insurance Code is amended to read:

3301. (a) (1) The purpose of this chapter is to establish, within the state disability insurance program, a family temporary disability



1 insurance program. Family temporary disability insurance shall  
2 provide up to six weeks of wage replacement benefits to workers  
3 who take time off work to care for a seriously ill child, spouse,  
4 parent, grandparent, grandchild, sibling, or domestic partner, or  
5 to bond with a minor child within one year of the birth or placement  
6 of the child in connection with foster care or adoption.

7 (2) Nothing in this chapter shall be construed to abridge the  
8 rights and responsibilities conveyed under the CFRA or pregnancy  
9 disability leave.

10 (b) An individual's "weekly benefit amount" shall be the amount  
11 provided in Section 2655. An individual is eligible to receive  
12 family temporary disability insurance benefits equal to one-seventh  
13 of his or her weekly benefit amount for each full day during which  
14 he or she is unable to work due to caring for a seriously ill or  
15 injured family member or bonding with a minor child within one  
16 year of the birth or placement of the child in connection with foster  
17 care or adoption.

18 (c) The maximum amount payable to an individual during any  
19 disability benefit period for family temporary disability insurance  
20 shall be six times his or her "weekly benefit amount," but in no  
21 case shall the total amount of benefits payable be more than the  
22 total wages paid to the individual during his or her disability base  
23 period. If the benefit is not a multiple of one dollar (\$1), it shall  
24 be computed to the next higher multiple of one dollar (\$1).

25 (d) No more than six weeks of family temporary disability  
26 insurance benefits shall be paid within any 12-month period.

27 (e) An individual shall file a claim for family temporary  
28 disability insurance benefits not later than the 41st consecutive  
29 day following the first compensable day with respect to which the  
30 claim is made for benefits, which time shall be extended by the  
31 department upon a showing of good cause. If a first claim is not  
32 complete, the claim form shall be returned to the claimant for  
33 completion and it shall be completed and returned not later than  
34 the 10th consecutive day after the date it was mailed by the  
35 department to the claimant, except that such time shall be extended  
36 by the department upon a showing of good cause.

37 (f) This section shall become inoperative and shall be repealed  
38 on January 1, 2017.

1     ~~SEC. 2.~~

2     ~~SEC. 6.~~ Section 3301 is added to the Unemployment Insurance  
3 Code, to read:

4     3301. (a) (1) ~~(A)~~ The purpose of this chapter is to establish,  
5 within the state disability insurance program, a family temporary  
6 disability insurance program. Family temporary disability insurance  
7 shall provide *up to eight weeks* wage replacement benefits to  
8 workers who take time off work to care for a seriously ill child,  
9 spouse, parent, grandparent, grandchild, sibling, or domestic  
10 partner, or to bond with a minor child within one year of the birth  
11 or the placement of the child in connection with foster care or  
12 adoption.

13     ~~(B) Before January 1, 2018, up to six weeks of wage~~  
14 ~~replacement benefits shall be provided.~~

15     ~~(C) On and after January 1, 2018, up to eight weeks of wage~~  
16 ~~replacement benefits shall be provided.~~

17     (2) Nothing in this chapter shall be construed to abridge the  
18 rights and responsibilities conveyed under the CFRA or pregnancy  
19 disability leave.

20     (b) *An individual's "weekly benefit amount" shall be the amount*  
21 *provided in Section 2655.* An individual is eligible to receive family  
22 temporary disability insurance benefits equal to one-seventh of  
23 his or her weekly benefit amount for each full day during which  
24 he or she is unable to work due to caring for a seriously ill or  
25 injured family member or bonding with a minor child within one  
26 year of the birth or the placement of the child in connection with  
27 foster care or adoption.

28     (c) ~~(1) Before January 1, 2018, the~~ *The* maximum amount  
29 payable to an individual during any disability benefit period for  
30 family temporary disability insurance shall be ~~six~~ *eight* times his  
31 or her "weekly benefit amount," but in no case shall the total  
32 amount of benefits payable be more than the total wages paid to  
33 the individual during his or her disability base period. *If the benefit*  
34 *is not a multiple of one dollar (\$1), it shall be computed to the next*  
35 *higher multiple of one dollar (\$1).*

36     ~~(2) On and after January 1, 2018, the maximum amount payable~~  
37 ~~to an individual during any disability benefit period for family~~  
38 ~~temporary disability insurance shall be eight times his or her~~  
39 ~~"weekly benefit amount," but in no case shall the total amount of~~

1 ~~benefits payable be more than the total wages paid to the individual~~  
2 ~~during his or her disability base period.~~

3 ~~(d) (1) Before January 1, 2018, no more than six weeks of~~  
4 ~~family temporary disability insurance benefits shall be paid within~~  
5 ~~any 12-month period.~~

6 ~~(2) On and after January 1, 2018, no~~

7 ~~(d) No more than eight weeks of family temporary disability~~  
8 ~~insurance benefits shall be paid within any 12-month period.~~

9 (e) An individual shall file a claim for family temporary  
10 disability insurance benefits not later than the 41st consecutive  
11 day following the first compensable day with respect to which the  
12 claim is made for benefits, which time shall be extended by the  
13 department upon a showing of good cause. If a first claim is not  
14 complete, the claim form shall be returned to the claimant for  
15 completion and it shall be completed and returned not later than  
16 the 10th consecutive day after the date it was mailed by the  
17 department to the claimant, except that such time shall be extended  
18 by the department upon a showing of good cause.

19 (f) ~~For purposes of this chapter, an individual's "weekly benefit~~  
20 ~~amount" shall be as follows:~~

21 ~~(1) When the amount of wages paid to the individual for~~  
22 ~~employment by employers during the quarter of the individual's~~  
23 ~~disability base period in which these wages were highest is not~~  
24 ~~more than four thousand sixty three dollars (\$4,063), then two~~  
25 ~~hundred fifty dollars (\$250), except that the weekly benefit amount~~  
26 ~~shall not exceed the amount of wages paid to the individual during~~  
27 ~~the quarter of the person's disability base period in which these~~  
28 ~~wages were highest divided by 13.~~

29 ~~(2) When the amount of wages paid to the individual for~~  
30 ~~employment by employers during the quarter of the individual's~~  
31 ~~disability base period in which these wages were highest is more~~  
32 ~~than four thousand sixty three dollars (\$4,063), but not more than~~  
33 ~~five thousand dollars (\$5,000), then 80 percent of the amount of~~  
34 ~~wages paid to the individual for employment by employers during~~  
35 ~~the quarter of the individual's disability base period in which these~~  
36 ~~wages were highest, divided by 13. If the weekly benefit amount~~  
37 ~~is not a multiple of one dollar (\$1), it shall be computed to the next~~  
38 ~~higher multiple of one dollar (\$1).~~

39 ~~(3) When the amount of wages paid to the individual for~~  
40 ~~employment by employers during the quarter of the individual's~~

1 disability base period in which these wages were highest is more  
2 than five thousand dollars (\$5,000), but is not more than fifteen  
3 thousand dollars (\$15,000), then either (A) three hundred eight  
4 dollars (\$308) or (B) 75 percent of the amount of wages paid to  
5 the individual for employment by employers during the quarter of  
6 the individual's disability base period in which these wages were  
7 highest divided by 13, whichever amount is greater. If the weekly  
8 benefit amount is not a multiple of one dollar (\$1), it shall be  
9 computed to the next higher multiple of one dollar (\$1).

10 (4) Except as provided in paragraph (5), when the amount of  
11 wages paid to the individual for employment by employers during  
12 the quarter of the individual's disability base period in which these  
13 wages were highest exceeds fifteen thousand dollars (\$15,000),  
14 then either (A) eight hundred sixty five dollars (\$865) or (B) 65  
15 percent of the amount of wages paid to the individual for  
16 employment by employers during the quarter of the individual's  
17 disability base period in which these wages were highest divided  
18 by 13, whichever amount is greater. If the weekly benefit amount  
19 is not a multiple of one dollar (\$1), it shall be computed to the next  
20 higher multiple of one dollar (\$1).

21 (5) An individual's "weekly benefit amount" shall not exceed  
22 the maximum workers' compensation temporary disability  
23 indemnity weekly benefit amount established by the Department  
24 of Industrial Relations pursuant to Section 4453 of the Labor Code.

25 (g)

26 (f) This section shall become operative on January 1, 2017.

27 SEC. 7. Section 3303 of the Unemployment Insurance Code is  
28 amended to read:

29 3303. (a) On and after July 1, 2014, an individual shall be  
30 deemed eligible for family temporary disability insurance benefits  
31 equal to one-seventh of his or her weekly benefit amount on any  
32 day in which he or she is unable to perform his or her regular or  
33 customary work because he or she is bonding with a minor child  
34 during the first year after the birth or placement of the child in  
35 connection with foster care or adoption or caring for a seriously  
36 ill child, parent, grandparent, grandchild, sibling, spouse, or  
37 domestic partner, only if the director finds all of the following:

38 (a)

39 (1) The individual has made a claim for temporary disability  
40 benefits as required by authorized regulations.

~~(b)~~

(2) The individual has been unable to perform his or her regular or customary work for a seven-day waiting period during each disability benefit period, with respect to which waiting period no family temporary disability insurance benefits are payable.

~~(e)~~

(3) The individual has filed a certificate, as required by Sections 2708 and 2709.

*(b) This section shall become inoperative and repealed on January 1, 2017.*

*SEC. 8. Section 3303 is added to the Unemployment Insurance Code, to read:*

*3303. (a) On and after July 1, 2014, an individual shall be deemed eligible for family temporary disability insurance benefits equal to one-seventh of his or her weekly benefit amount on any day in which he or she is unable to perform his or her regular or customary work because he or she is bonding with a minor child during the first year after the birth or placement of the child in connection with foster care or adoption, or caring for a seriously ill child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, only if the director finds both of the following:*

*(1) The individual has made a claim for temporary disability benefits as required by authorized regulations.*

*(2) The individual has filed a certificate, as required by Sections 2708 and 2709.*

*(b) This section shall become operative on January 1, 2017.*

*SEC. 9. (a) By October 1, 2016, the Employment Development Department shall report to the Assembly Committee on Insurance and the Senate Committee on Labor and Industrial Relations the projected costs and potential benefits associated with options to reduce, eliminate, or otherwise modify the waiting period for disability insurance benefits.*

*(b) The report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.*

*(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2020.*

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